

ITEL

January 9, 1987

IteI Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

RECORDATION NO. 140295K Filed & Recorded

JAN 15 1987 11-20 AM

015A040

No. NOV 15 1987

Date

Fee \$ 10.00

ICC Washington, D. C.

Hon. Noreta R. McGee
Secretary

Interstate Commerce Commission
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

Re: Amendment No. 4 to the April 20, 1983 Lease between IteI Rail Corporation and McCloud River Railroad Company

Dear Ms. McGee:

On behalf of IteI Rail Corporation, the above instrument, in four (4) counterparts, ks hereby submitted for filing and recording pursuant to 49 USC §11303(a), along with a check in the amount of \$10 covering the recordation fee.

Please record this Amendment under the Lease Agreement dated April 20, 1983, between IteI Rail Corporation and McCloud River Railroad Company, which was filed with the ICC on March 27, 1983, and given Recordation No. 14029.

The parties to the aforementioned instrument are listed below:

IteI Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

McCloud River Railroad Company (Lessee)
P.O. Drawer A
McCloud, California 96057

This Amendment adds sixty-five (65) 50'6", XM boxcars bearing reporting marks MR 8750-8789 and MR 8790-8814.

Once filed, please return to the bearer the stamped counterparts not required for filing purposes together with the fee receipt and a letter from the ICC acknowledging this filing.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

:ps
Enclosures

cc: Marianne Ledda

ICC OFFICE OF
THE SECRETARY
JAN 15 11 21 AM '87
MOTOR OPERATING UNIT

Interstate Commerce Commission

Washington, D.C. 20423

1/15/87

OFFICE OF THE SECRETARY

PATRICIA SCHUMACKER
ITEL RAIL CORPORATION
55 FRANCISCO STREET
SAN FRANCISCO, CALIF. 94133

Dear ~~S~~IR:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, *1/15/87* at 11:20pm, and assigned recordation number(s). 14029-K

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

12/05/86

RECORDATION NO. 140291 ^K Filed & Recorded

JAN 15 1987 11-2 0 AM

AMENDMENT NO. 4

INTERSTATE COMMERCE COMMISSION

THIS AMENDMENT NO. 4 (the "Amendment") to that certain Lease Agreement (the "Agreement") dated as of April 20, 1983, as amended, between ITEL Corporation, Rail Division and McCLOUD RIVER RAILROAD COMPANY ("Lessee") is made this 7th day of January, 1986 between ITEL RAIL CORPORATION, as successor in interest to ITEL Corporation, Rail Division, ("Lessor") and Lessee.

R E C I T A L S:

- A. Lessor and Lessee are parties to the Agreement pursuant to which Lessor has leased to Lessee one hundred thirty-nine (139) boxcars bearing the reporting marks from within the series MR 4041, MR 4084, MR 7177-7225, and MR 8000-8749 (N.S.) (together with the boxcars on the Equipment Schedules attached hereto, the "Cars").
- B. Lessor and Lessee desire to add sixty-five (65) Cars bearing reporting marks within MR 8750-8814 to the Agreement.

NOW, THEREFORE, the parties hereto agree to amend the Agreement as follows:

- 1. All terms defined in the Agreement shall have the meanings defined therein when used in this Amendment.
- 2. Equipment Schedules No. 5 and No. 6 attached hereto are hereby added to the Agreement.
- 3. All references to Equipment Schedule No. 2.A. in the Agreement shall be deemed to refer likewise to Equipment Schedules No. 5 and No. 6, except as modified in this Amendment.
- 4. With respect to the Cars on Equipment Schedules No. 5 and No. 6 only, a new sentence is added to Subsection 1.A. of the Agreement, as follows:

"Lessor shall commence delivery of the forty (40) Cars listed on Equipment Schedule No. 5 upon execution of the Amendment and shall commence delivery of the twenty-five (25) Cars listed on Equipment Schedule No. 6 at any time after such execution at Lessor's option."

- 5. Except for the Cars bearing the reporting marks MR 7177-7186 and MR 8700-8749, the words "Lessor and any assignee of Lessor" in the fifth and sixth sentences of Subsection 5.C. of the Agreement are replaced by the words "Lessor, Heller Financial, Inc. and any assignee of Lessor or of Heller Financial, Inc." each time they appear.

THIS INSTRUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF HELLER FINANCIAL, INC. UNDER THE HELLER FINANCIAL, INC. LOAN AND SECURITY AGREEMENT WITH ITEL RAIL CORPORATION DATED AS OF SEPTEMBER 30, 1986.

ASSIGNED TO FIRST SECURITY BANK OF UTAH, N.A., TRUSTEE, UNDER A LEASE ASSIGNMENT.

6. New Subsections 7.H, 7.I., and 7.J. are added to the Agreement as follows:

- "H. If any Car, while in the possession of Lessee, is damaged to the extent that such damage exceeds the AAR Depreciated Value ("DV") for such Car, Lessee shall notify Lessor within sixty (60) days following the date of the occurrence of such damage ("Damage Date"). If Lessee fails to notify Lessor within sixty (60) days of the Damage Date, Lessor has the right to engage an independent appraiser to inspect such Car to determine the extent of such damage. Regardless of whether or not Lessee has notified Lessor of the damage pursuant to this Subsection, Lessee shall remit to Lessor an amount equal to the DV of such Car within thirty (30) days of receipt of an invoice from Lessor.
- I. Any agreement between Lessee and any other party with respect to the Cars ("Third Party Agreement(s)") shall be void without Lessor's prior written approval.
- J. Lessor and Lessee agree to cooperate with and to assist each other in any reasonable manner requested to establish and pursue proper claims against parties responsible for loss or destruction of, or damage to, the Cars, provided, however, that this shall not affect their respective obligations under this Section 7."

7. With respect to the Cars on Equipment Schedules No. 5 and No. 6 only, new Subsection 7.K. is added to the Agreement as follows:

- "K. In the event that Lessor shall receive Revenues for the use of such Cars during any calendar quarter under this Agreement that are lower in amount than what would otherwise be due for the same service using the hourly and mileage car hire rates prescribed for excluded boxcars under the ICC decision in ICC Ex Parte No. 346 (Sub-No. 19) served September 12, 1986, set forth in the Appendix to such decision in paragraph (C)(3) of 49 C.F.R. 1039.14, whether as a result of a bilateral agreement entered into by Lessee or otherwise, Lessor shall have the option to initiate negotiations for the purpose of negotiating a new lease agreement. If a new lease agreement cannot be mutually agreed upon, the Agreement shall remain in effect, provided, however, that Lessor may, at its option and upon not less than ten (10) days' notice, terminate the Agreement as to any number of Cars as Lessor shall determine."

8. The words "...entered into by Lessor in connection with the acquisition of the Cars ..." in the second sentence of Subsection 8.A. are replaced by the words "...pursuant to which Lessor's obligations thereunder are or become secured by the Cars..."

9. With respect to the Cars on Equipment Schedules No. 5 and No. 6 only, the words "repaint and restencil" and "repainting and restencilling" in Subsections 10.A.(i) and 10.A.(ii) are replaced by the words "remark" and "remarking" respectively each time they appear; Subsection 10.B.(i) is deleted; and the word "Restencilling" in Subsection 10.B.(ii) is replaced by the word "Remarking".
10. Except as expressly modified by this Amendment, all terms and provisions shall remain in full force and effect with respect to all of the Cars subject to the Agreement.
11. This Amendment may be executed by the parties hereto in any number of counterparts and all the counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL RAIL CORPORATION

By: 

Title: President

Date: 12/7/87

McCLOUD RIVER RAILROAD COMPANY

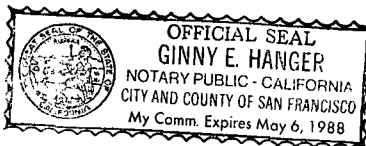
By: 

Title: PRES.

Date: 12-16-86

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 7th day of January, 1988, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of ITEL Rail Corporation, that the foregoing Amendment No. 4 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

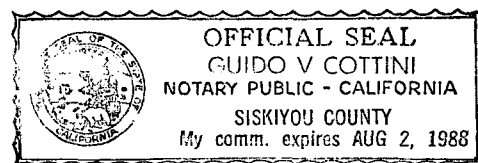


Ginny E. Hanger
Notary Public

STATE OF California)
) ss:
COUNTY OF Siskiyou)

On this 16th day of December, 1986, before me personally appeared Paul A. Zalec, to me personally known, who being by me duly sworn says that such person is President of McCloud River Railroad Company, that the foregoing Amendment No. 4 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Guido V. Cottini
Notary Public



EQUIPMENT SCHEDULE NO. 5

Itel Rail Corporation hereby leases the following Cars to McCloud River Railroad Company subject to the terms and conditions of that certain Lease Agreement dated as of April 20, 1983.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions Inside		Height	Doors Width	No. of Cars
				Width				
XM	Box, Steel, Nailable Steel Floor, Cushioned Underframe	MR 8750- 8789	50'6"	9'6"		10'7"	2-8' O.C. Sliding Doors	40

ITEL RAIL CORPORATION

By: *[Signature]*

Title: *President*

Date: *1/7/87*

McCLOUD RIVER RAILROAD COMPANY

By: *Paul A. Zabe*

Title: *Pres.*

Date: *12-16-86*

EQUIPMENT SCHEDULE NO. 6

Itel Rail Corporation hereby leases the following Cars to McCloud River Railroad Company subject to the terms and conditions of that certain Lease Agreement dated as of April 20, 1983.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Height	Doors Width	No. of Cars
				Inside Width				
XM	Box, Steel, Nailable Steel Floor, Cushioned Underframe	MR 8790- 8814	50'6"	9'6"		10'7"	2-8' Sliding Doors	25

ITEL RAIL CORPORATION

By: Desmond P. Hayes

Title: President

Date: 1/7/87

McCLOUD RIVER RAILROAD COMPANY

By: Paul A. Zake

Title: Pres

Date: 12-16-86

660:71595-6

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 7th day of January, 1987, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Equipment Schedules No. 5 and No. 6 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act